App I IX 4

1953-54
(C M)

File No 30-53-

Serial Nos 27, 28

Previous References.
C M 30-50 24 26
26 27

Later References

P 16E

MYSORE GOVERNMENT SECRETARIAT

Serial Nos 2

Part B for January 1954

SUBJECT

Regarding the Continuance of the Mayor and the Deputy Mayor for the Succeeding term of Office till their Successors are elected after the general Elections Provided they are re-elected as Councillors for the Succeeding term also

WD 0355 —GPB—25 000—2 7 53

To,

The Comm Corporation of the City of Bangalore
(Through the Mayor)

L 13105/ Dated 8/54

Instructs that the Comm may call
for the first meeting

M G S APP F III—1]

MYSORE GOVERNMENT SECRETARIAT

( )

NOTES

File No

FILE HEADING

Re, Conference of Mayor and Deputy Mayor after the term of office on Re-election

FROM

The Commissioner, B'lore Corporation

No A 1/11/53-54 Dated 4 1 1954 Received 5 1 54

Diary No	Enclos	Spare copies	Serial No
29			

BRIEF ABSTRACT OF LETTER

Seeks Govt's clarification in Re above

NOTES AND ORDERS

1) The point for consideration in this case is "who should convene the first meeting of the Corporation consisting of the newly elected councillors and aldermen for purpose of conducting the election of the Mayor, Is it the Mayor or is it the Deputy Mayor? ~~That is to say is it Sri T.H.Basavarajappa, who was the previous Deputy Mayor and now elected as a councillor~~ ~~That is to say whether Sri T.H Basavarajappa continues to be the Deputy Mayor after 1-1-54 until the Mayor or the Deputy Mayor is elected~~

2) Rule 6 of the Rules re proceedings of the Corporation and Committees, lays down as follows -

NOTES—First Sheet "If the offices of the Mayor and the Deputy Mayor are vacant

WD—03 07 GPE—1C 000— 0 7-53

the duties assigned to the Mayor by Rules 2 to 5 shall be performed by the Commissioner "

Rules 2 to 5 state that the Mayor may convene a meeting and conduct the meeting proceedings etc

The present circumstances of the Corporation are

(1) That the Councillors and Aldermen are elected and a new Corporation Council is formed with effect from 1-1-1954

(2) That the previous Mayor is not elected ~~as~~ either as a Councillor or an Alderman

(3) That the previous Deputy Mayor, Sri T H Basavarajappa has been elected as Councillor

3) In these circumstances, a doubt has arisen as to whether according to law Sri T H Basavarajappa continues to be the Deputy Mayor - The Corporation Advocate refers to Sec 438 of the Corporation Act I think sections 436 to 439 deal with the transitional and transitory provisions. before the other provisions of the Corporation Act were brought into force in the Corporation limits

Section 438 ~~particularly~~ lays down as follows -

"Notwithstanding anything contained in this Act,

(a) until the constitution of a Corporation in accordance with the provisions of this Act, the previous Municipal Comission, Civil and Military Area and the City Municipal Council, Bangalore City, will merge into a single council and continue as an interim corporation of Bangalore "

Therefore section 438 does not apply in this case

4) The next provision which has to be dealt with in this case is section 60 of the Corporation Act, which lays down as follows -

"The term of office of councillors and aldermen shall save otherwise expressly provided be three

Mysore Government Secretariat | File No | of 195

WD 03547—GPB—40 000—14 8 3

Serial No

years, and beginning and expiring at noon on the 1st day of January " ~~The words~~ The words "save otherwise expressly provided" are very significant, ~~and I think~~ and have definite bearing on section 31 and 40 of the Corporation Act because there has been expressly provided in these two sections as to what should be done when the offices of the Mayor and the Deputy Mayor ~~become~~ become vacant Therefore section 60 is being controlled by other sections of the Corporation Act Section 31 says that the Mayor, Deputy Mayor or Chairman shall be entitled to hold office from the time of his election until the election of his successor provided that in the meantime he does not cease to be a councillor or an alderman It is very clear that a councillor ~~who has been elected in the recent elections~~ who happened to be a Mayor, Deputy Mayor or Chairman will continue as such until the election of his successor Therefore it is beyond doubt that Sri T M Basavarajappa will continue as Deputy Mayor from 1-1-54 in accordance with the provisions of section 31

57) The second portion of section 31, deals with those cases in which any vacancy in the office of the Mayor, Deputy Mayor or Chairman occurs before the general election takes place The first portion of this section deals with those vacancies when the general election of councillors or aldermen takes place and the second portion deals with vacancies which occur before the general election Having made this point clear, I proceed to section 41, wherein it is definitely stated that when the office of the Mayor is vacant, his

Serial No

functions shall devolve on the Deputy Mayor until a new Mayor is elected Therefore there is absolutely no reason to entertain any doubt regarding the powers of the Deputy Mayor to convene the first meeting, because he continues to be the Deputy Mayor under section 31

6) From the practical point of view also, it is in the fitness of things that the Deputy Mayor calls for the meeting, in which the Mayor will be electeda and he hands over charge of office to that gentleman Therefore the Commissioner will have be definitely informed that the Ex-Deputy Mayor, Sri Basavarajappa will continue as the present Deputy Mayor and he has to convene the meeting, in which the Mayor is to be elected This point has been made clear by the Madras Government (Vide their letter dated 22-10-1948)

7) The last point for considerdsion is whether it will be right on the part of the Government to advise the Commissioner every now and then on all matters in which he has to exercise his discretion and take action, because if matter are taken in appeal to any Court, the instructions of Government in this regard will be subject to comment and criticism in the open Court Therefore I think it is better to instruct the Commissioner to act according to the provisions of the Corporation Act, and Government may rescind to give any instructions in the matter

8) For favour of remarks
Law Secy)
SD

5608 5

Law

9) for fo remarks

LAW DEPARTMENT

Law Secy)

Law

4 15 PM

LAW BRANCH

6 (6) The question for consideration is as to who should convene the first meeting of the Corporation consisting of the newly elected councillors and aldermen for the purpose of conducting the election of the Mayor. A matter of this type seems to have been arisen about January 1951 and the then Municipal Advocate who was requested to furnish his opinion has stated that it is the Commissioner that can convene the first meeting of the Corporation at which the Mayor has got to be elected The present Commissioner of the Corporation has stated in his letter dated 4 1 1951 (P U D) that he entirely agrees with the view expressed by the Municipal Advocate, but, however, the Commissioner has requested the Government to give a clear direction in the matter Again, the Commissioner has made a reference to the Corporation of Madras regarding the procedure that has been adopted there and the reply received from the Corporation of Madras has also been furnished (flag X')

11) The ex - Deputy Mayor, Sri Basavarajappa, has been re-elected as councillor in the recent elections to the Corporation and one of the contentions raised is that by virtue of Section 31 of the Corporation Act Sri Basavarajappa continues to be the Deputy Mayor and is therefore competent to preside over the first

first meeting of the Corporation and this view has been expressed at para 6 supra But this opinion is apparently in conflict with the opinion expressed by the Commissioner in the P U D and the view of the Commissioner is practically based upon the opinion expressed by the then Municipal Advocate during the year 1951 Section 60 of the Corporation Act is as follows -

> "The term of office of councillors and aldermen shall, save as otherwise expressly provided, be three years beginning and expiring at noon on the first day of January"

12) According to this section, the term of the councillors and aldermen shall be only three years and the Mayor and the Deputy Mayor have ceased to hold the offices from 1st January 1954 But in view of Section 31 of the Corporation Act there has been some difficulty Section 31 of the Corpontion Act is as follows -

> "The mayor, deputy mayor or chairman shall be entitled to hold office from the time of his election and until the election of his successor, provided that in the meantime he does not cease to be a councillor or alderman
>
> On the occurrence of any vacancy in the office of mayor, deputy mayor or chairman, the corporation or standing committee, as the case may be, shall at its next meeding elect a successor, who shall be entitled to hold office so long as the person in whose place he is elected would have been entitled to hold it, if the vacancy had not occurred"

13) Inasmuch as Sri Basavarajappa, the ex-Deputy Mayor of the Corporation has been re-elected as a Councillor, it is contended that by virtue of the proviso to Section 31 he is entitled to call for the first meeting and preside over the same But in the letter addressed by the Secretary to the Council, Corporation of Madras, to the Commissioner, Corporation of the City of Bangalore (flag 'X') it is stated as follows

follows -

"I write to state that under Section 55 of the M C M Act the term of ~~the~~ office of Councillors and Aldermen shall, save as otherwise expressly provided, be three years beginning and expiring at noon on the first day of November On this analogy the term of office of the old councillors and Aldermen of the Corporation of the City of Bangalore has expired at noon on the first day of January 1954 and automatically, the erstwhile Mayor and Deputy Mayor have ceased to hold offices as such, irrespective of the fact that they have been re-elected as Councillors for a fresh period of 3 years from 1 1 54 Hence the office of the Mayor and Deputy Mayor of the Bangalore Corporation shall be deemed to be vacant from 1 1 54

14) Virtually, according to the above view, the ex-Deputy Mayor who has been re-elected cannot call for the first meeting ~~convened over the same~~ as he is deemed to have vacated the office of the Deputy Mayor from 1 1 1954 and this is the interpretation put upon Section 31 of the Act In view of Section 60 of the Corporation Act, there is considerable force in support of this view and practically according to the procedure adopted in Madras, it is the Commissioner who seems to call ~~convened~~ for the first meeting ~~and presided over~~ ~~by~~ In the circumstances, it would be quite appropriate for ~~Government~~ the Commissioner to call for the first meeting of the Corporation

8791
7 JAN 1954

Secretary - L S G) cm
7 1/54

15) I agree. Inform the Commissioner at once and file for perusal of Minr

7/1

16) Draft a letter stating that the Comr may convene the meeting Do not quote at length the opinion of the Law Secy

7/1

Ed 58

8

Re Continuance of Mayor and Dy Mayor on Re election and to hold Successors as offices are elected

---

17) Dft letter to the Commr, CCB for post cop for approval

Ca 8/1/52.

18) Issue

[signature]

OFFICE OF THE MINISTER FOR PUBLIC HEALTH LOCAL SELF GOVERNMENT
11 JAN
No 4661

To

The Commissioner, Corporation
No-L 13105/CN 30-53-28
dt 8/1/52

Instructs that the Commr may call for the first meeting

19) Resubmitted after issue - Reference para 15 above

Ca 9/1/52

Sec 9/1/52

for approval

11/1

Minister for L.S.G. 12/1/52

13-12-1954

12/1

Sec 25/1

6238
5 JAN 1954

CORPORATION OF THE CITY OF BANGALORE.

No A1/11/53-54
Enc One

5-30 pm
4 JAN 1954

CORPORATION OFFICES
BANGALORE
Dated 4th January 1953

FROM IMMEDIATE
THE COMMISSIONER,
CORPORATION OF THE CITY OF BANGALORE,
BANGALORE

To
The Secretary to the Government of Mysore,
Local Self Government and Planning Departments,
BANGALORE

Cel(M)II 30 ST 53-27

SIR

Subject - Regarding the Continuance of the Mayor and Deputy Mayor for the succeeding term of Office till their sucessors are elected after the General - elections, provided they are re-elected as Councillors for the succeeding term also

I write to state that the term of the Mayor, Deputy Mayor, Councillors and members of the Standing Committee expired on the noon of the 1st January 1954

Sri T H Bhasardjappa, Deputy Mayor of the Corporation has been re-elected as a Councillor of the Corporation during the Genaral elections held on 20th December 1953 I request for clarification of Government whether he could continue as Deputy Mayor till his sucessor is elected under section 31 of the Corporation Act or whether the undersigned could perform the duties assigned to the Mayor under rule 2 to 5 of schedule II of the said Act for convening the meeting for the election of the Mayor and Deputy Mayor which is to take place immediately

for favourable remarks if possible in the course of the day.
Yes SI.
Law Secy)

Since section 31 of the Corporation Act of the City of Bangalore which has been framed on the model of section 29 of the Madras Corporation Act does not seem to be clear on the point a reference to the Commissioner of the Corporation of Madras has been made for a reply immediately regarding the - practice observed obtaining in Madras in this behalf

The Municipal Advocate to whom the matter was once referred was of the opinion, that provision of section 31 evidently refers to a situation unconnected with the general election of the members of the Corporation but refers to a case where, in the usual course the Mayor or Deputy Mayor retired at the end of the year or a fresh election of the

P T O

the Mayor or Deputy Mayor has got to be conducted for the succeeding year and during the interim period from the expiry of the usual period to the date of the election of the New Mayor or Deputy Mayor of the preceeding year is entitled to hold office till the election or his successor. He was definately of the view that in a case like this, only the Commissioner has to perform the duties of the Mayor from rule 2 to 5 schedule II of the Act and convene the first meeting of the Corporation at which the Mayor has got to be elected. A copy of his letter dated 3rd January 1951 is also enclosed for perusal. I entirely agree with the above view.

I request however, that a clear direction may be issued by the Government clarifying the position.

Yours faithfully,

(K. CHENJERAPPA) 4/1/54
COMMISSIONER

VKR 4/1/54

Copy of the Opinion of the Corporation Advocate

The question is who is to convene the first meeting of the Corporation consisting of the newly elected Councillors and Aldermen Under Section 438 of the Corporation Act, the term of office of the Mayor, Deputy Mayor, Councillors and members of the Standing Committees shall subject to the provisions of sub-section (2) of Section 55, sections 57, 58, 59 and 70 extend to or expire on such date as the Government may fix and I understand that the Government has fixed the date as the 31st December 1950 So on that date the term of office of the Mayor, Deputy Mayor, Councillors etc , shall expire and with that date the erstwhile Mayor, Deputy Mayor and Councillors and members of the Standing Committees shall not function as such, though they happen to be again elected as members of the Corporation The provisions of Sections 55, 57, 58, 59 and 70 have no bearing on the present issue The only question that will have to be considered is whether under section 31, the erstwhile Mayor, Deputy Mayor or Chairmen of the Standing Committees, if elected afresh to the Corporation, shall be entitled to hold office as such Mayor, Deputy Mayor or Chairmen till the election of his successor Section 438 (c) is not made subject to the provisions of Section 31 This provision evidently refers to a situation unconnected with the general election of the members of the Corporation This in my opinion refers to a case where in the usual course, the Mayor or Deputy Mayor retired at the end of the year or a fresh election of the Mayor or Deputy Mayor has got to be made for the succeeding year and during the interim period from the expiry of the usual period to the date of the election of the new Mayor or Deputy Mayor, the Mayor or Deputy Mayor of the preceding year is entitled to hold office till the election or his successor This is made very clear that this section 31 refers to only such cases of election of fresh Mayor or Deputy Mayor during the continuance of the membership of the Corporation, by Section 32, which provides for the out-going Mayor, Deputy Mayor or Chairmen being eligible for re-election In the case of the termination of the membership of all the members or the Corppration including the Mayor, Deputy Mayor, Councillors and members of the Standing Committees, it is section 438 (c) that governs the situation, and in such cases we have to decide who is to convene the meeting of the Corporation for the election of the Mayor and Deputy Mayor

All meetings of the Corporation shall be convened by the Mayor under rule 2, Schedule II and if the office ~~of~~ the Mayor and Deputy Mayor are vacant as in a case like this, those duties have to be performed by the Commissioner Under rule 6 of the same Schedule, it is also significant that it is only such duties as convening of meetings etc , under rules 2 to 5 that have got to be performed by the Commissioner In my opinion it is~~s~~ the Commissioner that can convene the first meeting of the Corporation at which the Mayor has got to be elected

SD A V Shankar Rao,
Corporation Advocate,
3-1-1951

"Copy"

For Commissioner

CORPORATION OF THE CITY OF BANGALORE

No A1/11/53-54

CORPORATION OFFICES
BANGALORE

Dated 7th January *195* 4

FROM

THE COMMISSIONER,
CORPORATION OF THE CITY OF BANGALORE
BANGALORE

To

The Secretary to the Government of Mysore,
Local Self/and Planning Departments,
B A N G A L O R E

SIR

Subject - Regarding the continuance of the Mayor and Deputy Mayor for the succeeding term of office till their successors are elected after the general - election- provided they are re-elected as Councillors for the succeeding term also

---

In continuation of this office letter of even number dated the 4th January 1954 on the above subject I forward herewith in original the reply No G D C No B/9/54 dated the 6th January 1954 together with a copy of the proceedings of the Council of the Corporation of Madras dated 4th November 1953 received from the Secretary to the Council, Corporation of Madras, explaining the procedure in regard to the conduct of proceedings for - taking oath of allegance the election of Mayor etc

I request that the Government may be pleased to pass immediate orders in the matter

Yours faithfully,

VKR 7/1/54

(K HENJERAPPA)
COMMISSIONER

C A D N III 16
60 000—J ly 1953

6

From

V Satchidananda Rao, B A ,B L,
Secretary to the Council,

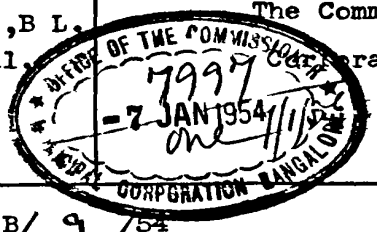
CORPORATION OF MADRAS
Ripon Buildings Pa k Town P O
Madras

Department

To

The Commissioner,
Corporation of the City of
Bangalore,

Bangalore



G D C No B/ 9 /54

Date 6th Jan 1954

Sir,

Sub Enquiry regarding the continuance of the Mayor & Deputy Mayor

Ref Your letter No A 1/11/53-54 dated 4-1-54 and telegram dated 5-1-1954

With reference to your letter and/ to the Commissioner, Corporation of Madras, I write to state that under Secn 55 of the M.C.M. Act the term of office of Councillors and Alderman shall, save as otherwise expressly provided, be three years beginning and expiring at noon on the first day of November On this analogy the term of office of the old Councillors and Aldermen of the Corporation of the City of Bangalore has expired at noon on the first day of January 1954 and automatically, the erst-while Mayor and Deputy Mayor have ceased to hold office as such, irrespective of the fact that they have been re-elected as Councillors for a fresh period of 3 years from 1-1-54, Hence the office of the Mayor and Deputy Mayor of the Bangalore Corporation shall be deemed to be vacant from 1-1-54

In this connection, attention is invited to Rule 6 of the Schedule II of the M C M Act which states that if the office of the Mayor and Deputy Mayor are vacant, the duties assigned to the Mayor by rules 2 to 5

p t c

thereof shall be performed by the Commissioner The Commissioner can call for a meeting of the Council for the election of Aldermen After this, he can call for another meeting for electing the Mayor and the Deputy Mayor At that meeting the Commissioner shall preside and administer the oath of allegiance to the newly elected Councillors and Aldermen After this, the Council can elect a temporary Chairman and proceed with the election of the Mayor

A printed copy of the proceedings of the Council of the Corporation of Madras dated 4-11-53 is forwarded herewith for your information

TBS/6-1-54

T.B.S. Rao
Secretary to the Council

Encl one printed proceedings of Council dt 4 11 52 at 5 30 pm

6/1/54

6/1/54

Appendix F G—1]

SUBJECT Regarding the continuance of the Mayor and Deputy Mayor for the Proceedings term of office as the term of Councillors for the Proceedings term also. Successors are elected after the general election provided they are re elected as

Section C M

File No 30-53

Serial No 28

No L 13105/8-1 53

To

The Commissioner, CCB

(through the Mayor)

Sir

With Reference to your letter no A 1/11/53-54 dated 7-1-54 on the subject I am directed to state that ~~the words the appropriate for the~~ Commissioner may issue notice to call for the first meeting of the newly elected Corporation under Rule 6 of the Rules regarding the proceedings of the Corporation

Diary No of letter replied to

Mysore Government Secretariat

( )

the 195

Date of issue

Signed by

Asst Correspondence

List of enclosures

Copied by

Examined by

WD 03545—GPB—40 000—25 6 53

4

Yours Jas W Talley

811

Jas SG Seay

8/1/54

L 13105/CM 30-53-28 10

(Municipal Branch)
8-1-54

The
L S G & Plerning Departments

To

The Commissioner,
Corporation of the City of Bangalore
(thro' the Mayor)

Sir,

Subject Regarding the continuance of the Mayor and Deputy Mayor for the succeeding term of office till their successors are elected after the general election provided they are re-elected as Councillors for the succeeding term also

- - - - -

With reference to the correspondence ending with your letter No A1 /II/53-54 dated 7th January 1954 on the subject, I am directed to state that the Commissioner may issue notice to call for the first meeting of the newly elected Corporation under Rule 6 of the Rules regarding the proceedings of the Corporation and the Councillors Commonalties

Yours faithfully,

(V Hanumanthappa)
For Secretary to Government,
L S G & Planning Departments

knr-2/8 1